



STATE OF KANSAS

Tenth Judicial District

OFFICE OF DISTRICT ATTORNEY

STEPHEN M. HOWE, DISTRICT ATTORNEY

March 27, 2025

**To: Members of the Kansas House of Representatives serving on the Roundtable
Discussion Regarding Child in Need of Care and the use of Police Protective Custody**

Honorable Members of Kansas House of Representatives:

On behalf of the Johnson County District Attorney's Office, I wanted to offer my comments and concerns regarding modification to the current law pertaining to the protection of children through the use of Police Protective Custody (PPC) as authorized in K.S.A. 38-2231. I have served in the Johnson County District Attorney's Office since 1990, and I have been involved in juvenile court for all of those years. I have prosecuted in excess of 2,000 Child in Need of Care (CINC) actions in my career. I have served on the Judicial Council JO/CINC advisory committee for 25 years. I have also testified dozens of times before the legislature on issues regarding the Juvenile Justice Code and the Code for the Care of Children. I serve as the Chair of the Kansas Juvenile Justice Oversight Committee as created by SB 367. I currently supervise the Juvenile Unit in our office.

During the time I have been serving as an ADA, the CINC code has had some modifications and been the subject of many discussions with the goal of improving the way we serve children in Kansas. I have seen the duration of PPC move from 72 hours to 48 hours and back to 72 hours, as it is today. I helped draft the CINC code in 2007 while serving on the Judicial Council JO/CINC Committee when code was re-drafted and relocated from K.S.A. 38-1601 et. seq. to the current location in K.S.A. 38-2201 et. seq. Each time a modification is sought to the foundation of the CINC Code, and the code is examined, it is determined that the Code is well drafted, and when applied properly serves the children and families of Kansas very well.

I understand the desire to improve the care provided for children and families, and the desire to make sure the child(ren) are removed from home only when necessary for the safety of the child(ren). I believe the current code serves these interests. I have not observed abuse or chronic overuse of PPC by our local law enforcement. Therefore, I do not believe the current PPC procedures should be changed. I agree with the positions provided by Ed Klumpp and Ron Paschal in their respective position papers provided to the Roundtable.

The use of PPC provides the first line of defense and protective for abuse and neglects in our state. The 72 hours provided to the Department for Children and Families (DCF) to put

services in place and allow children to be safely returned home, is utilized on a regular basis. Services and other protections (such as safety plans) are put in place and children are safely returned. In the absence of the exercise of PPC, the children would not be protected and would continue to be at risk for harm or continue to be harmed.

No child welfare system or statute will be perfect. We should always seek to improve systems and statutes when needed. The question should be framed: Does the statute in place protect children and families? When applied as written are the proper children being placed in PPC? I firmly believe the answer to both questions is, "Yes". Further, would changing a statute which has 50-plus years of case law that support the language used, in favor a new language that is untested, advance the cause of protecting children and families? I submit it would not.

The desire to have more input from DCF in the exercise of PPC or any form of removal is a worthy goal. The reality is that DCF does not have the ability to operate on a 24/7 basis. Law enforcement officers are always available. Additionally, the final decision of removal of a child must rest with some entity, and that responsibility has been properly exercised by law enforcement for many years. I fear that we are in danger of fixing a system that is not broken.

Respectfully,

A handwritten signature in blue ink, appearing to read "D. Hymer", with a stylized flourish at the end.

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